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SIMPSON STRONG-TIE COMPANY INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SIMPSON STRONG-TIE COMPANY  
INC.,

Plaintiff,

v.

MITEK INC.,

Defendant.

Case No.

**COMPLAINT FOR FALSE  
ADVERTISING, PASSING OFF, UNFAIR  
COMPETITION, AND COPYRIGHT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff Simpson Strong-Tie Company Inc. (“Simpson” or “Plaintiff”) hereby complains  
against Defendant MiTek Inc. (“MiTek” or “Defendant”) as follows:

**I. NATURE OF THE ACTION**

1. This is an action for false advertising, passing off, unfair competition, and  
copyright infringement. Defendant MiTek has engaged in a pattern and practice of improperly  
copying and using Plaintiff Simpson’s proprietary product names as MiTek product names and  
“Reference Numbers” to make false statements to consumers in order to market and sell MiTek’s  
competing products. Simpson seeks a permanent injunction to stop this deceptive and harmful  
use of Simpson proprietary product names, which is widespread on MiTek’s website, mobile  
software application, product catalogs, product packaging and labels, shelf tags, and other  
marketing and point-of-sale materials.

## II. THE PARTIES

2. Simpson is a California corporation with its principal place of business in Pleasanton, Alameda County, California. As described in more detail below, Simpson is engaged in the design and manufacture of various products for the construction industry.

3. On information and belief, Defendant MiTek is a Missouri corporation with its principal place of business in Chesterfield, Missouri. Like Simpson, Defendant manufactures and sells products for the construction industry.

## III. JURISDICTION

4. This is an action for false advertising and passing off under the Federal Lanham Act, copyright infringement under the Federal Copyright Act, and false advertising and unfair competition under California law. The Court has original subject matter jurisdiction over the First and Third Causes of Action for false advertising and passing off, respectively, under the Lanham Act pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1331. The Court has original subject matter jurisdiction over the Fifth Cause of Action for copyright infringement under the Copyright Act pursuant to 28 U.S.C. § 1338(a). The Court has original subject matter jurisdiction over the Fourth Cause of Action for unfair competition under state law pursuant to 28 U.S.C. § 1338(b). The Court has supplemental jurisdiction over the Second Cause of Action for false advertising under state law pursuant to 28 U.S.C. § 1367(a).

5. The Court has personal jurisdiction over MiTek because, among other things, MiTek has established minimum contacts within the forum such that the exercise of jurisdiction over MiTek will not offend traditional notions of fair play and substantial justice. MiTek conducts business throughout the United States, and actively transacts business in this judicial district by selling its products in this district, directly and through retailers and retailers' websites. MiTek advertises, markets, offers for sale, and sells its products in this judicial district.

6. In addition to MiTek's continuous and systematic conduct of business in California, the Court has specific jurisdiction over MiTek because the causes of action against it in this Complaint arose from or are connected with its purposeful acts committed in this district in California, including engaging in false advertising, passing off, unfair competition, and

copyright infringement.

#### IV. VENUE

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) and (2) because MiTek is a resident of this district for purposes of Section 1391 and a substantial part of the events or omissions giving rise to the claims occurred in this district.

#### V. INTRADISTRICT ASSIGNMENT

8. Pursuant to Civil Local Rule 3-2(c), intellectual property actions such as this action are assigned on a district-wide basis.

#### VI. GENERAL ALLEGATIONS

##### A. **Simpson Is The Industry Leader In Structural Connectors**

9. Simpson is the world leader in structural product solutions for the construction industry. For more than 60 years, Simpson has marketed and sold products that make structures safer and stronger, and the company is recognized as the premier brand of structural connectors in the residential construction industry. Indeed, Simpson was one of the first companies to introduce an extensive line of structural connectors used in wood-to-wood and wood-to-concrete construction. Over time, other companies entered the market, but rather than dedicating significant investment to research and development, most of these companies attempted to copy or knock-off Simpson products. As a result of Simpson's leading role and unparalleled reputation in the industry, building plans often call out Simpson's products by name and require "Simpson or equivalent."

10. Simpson invests heavily in research and development, and has continuously expanded its line of structural connectors with innovative new products that address the changing needs of its customers. Not only does Simpson offer a wide variety of structural connectors for residential construction, Simpson is also well-known for its line of shearwalls, moment frames, and fasteners. In the last few decades, the company has expanded further with products designed for "Do It Yourself" (DIY) projects and products for infrastructure, commercial, and industrial construction, including mechanical anchors, adhesives, and products that repair, protect, and strengthen concrete and masonry.

11. As a company built on innovation, Simpson is respectful of and highly values intellectual property rights, both its own and others'. Simpson has obtained approximately 900 patents over the past 60 years. The great majority of these patents pertain to structural connectors and fasteners, and are still enforceable, having been issued in recent years in connection with Simpson's development and release of new or updated product designs.

**B. Simpson's Product Names**

12. Simpson creates a proprietary product name for each and every connector and fastener it markets. The product name includes both (a) a "Part Name" consisting of a letter or combination of letters (also occasionally including a number or numbers) designating the product line (*e.g.*, "LGUM" for a hanger for concrete or masonry applications, "BCS" for a post cap, and "LUS" for a hanger with double shear/slant nailing), and (b) a range of what Simpson refers to as "Model Numbers" consisting of additional numbers and letters added to the Part Name to identify the various models of the part with differing attributes, including, in some cases, distinct sizes, temperature ratings, and load values (*e.g.*, "LGUM26-2-SDS," "LGUM28-4-SDS," "BC4," "BC46R," "LUS26-2SS," and "LUS28SS").

13. Simpson has been using proprietary alphanumeric product names for its connectors and fasteners for decades. For Simpson's long-standing product lines, the same product names have been used for many years and have become well known to consumers. As new products are marketed, Simpson creates new product names – with an overarching Part Name and specific Model Numbers.

14. The process related to Simpson's creation of new product names involves a significant amount of creativity and originality. Simpson product names are not randomly generated; nor has Simpson adopted a product nomenclature system that automatically generates or results in a product name when a new product is developed. Instead, Simpson employees take considerable time and effort to develop the Part Name and Model Numbers for each new product line or new Model Number within an existing product line, taking into account a variety of factors including the description of the product, ease of use for consumers, and the existence of other Simpson product names. While there is sometimes an acronymic relationship between the

1 product name and the product description, that is not always the case and, even when it is, the  
2 decision to use a particular product name is still creative and original. Each time a new product is  
3 developed, Simpson creates and introduces to the market the new and original product, product  
4 description, and product name.

5 15. Simpson's long-standing, consistent, and extensive use of its proprietary product  
6 names, described in detail below, has resulted in its product names becoming very well-known.  
7 Indeed, as noted above, engineers regularly specify Simpson's products in building plans by the  
8 product name and the construction professionals who install the specified products likewise  
9 know and use the product names.

10 **C. Simpson's Use Of Product Names In Marketing And Advertising Its**  
11 **Products**

12 16. Simpson has employed and does employ its product names consistently and  
13 extensively across its various marketing strategies and advertising media.

14 **1. Simpson's Use Of Product Names On Its Website**

15 17. Simpson uses its proprietary product names throughout its website at  
16 strongtie.com. For example, the Part Names are used to identify particular product lines on pages  
17 of the strongtie.com website devoted to particular product categories, as shown in the example  
18 below (annotated in red) of the various products displayed on the "Bases and Caps" page at  
19 [https://www.strongtie.com/capsandbases\\_woodconnectors/category](https://www.strongtie.com/capsandbases_woodconnectors/category).

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Search strongtie.com

Products Solutions Technology Resources Customer Service Where to Buy For Homeowners About

Home > Connectors > Wood Construction Connectors > Bases and Caps

## Bases and Caps

Refine Results

Sort by Relevance

26 Refined Results Displayed Below

Grid View List View

**Category**

- Post Bases
- Column Bases
- Post Caps
- Column Caps

**Type**

- ☐ Column Base 2
- ☐ Column Cap 6
- ☐ Post Base 9
- ☐ Post Bracket 2
- ☐ Post Cap 4

**Style**

- ☐ Bolted 5
- ☐ Cast-in-Place 2
- ☐ Concealed 1
- ☐ Elevated 1
- ☐ Lally-Column Cap 4
- ☐ Nailed 1
- ☐ Ornamental 1
- ☒ Show More

**Application**

- ☐ Cold-Formed Steel 2
- ☐ Concrete 6
- ☐ DIY/Home Projects 2
- ☐ Deck Anchoring 1
- ☐ Deck Framing 13
- ☐ Deck Repair / Renovation 1
- ☐ Decking - Wood 1

**MPBZ**  
Moment Post Base  
The new patent-pending MPBZ is the first post base specifically designed to provide moment resistance for columns or posts and features an innovative overlapping sleeve design to resist rotation.

**CBTZ**  
Concealed Beam Tie  
The CBTZ concealed beam tie combines structural strength with invisibility for applications that call for concealed joinery rather than standard beam-to-post connections.

**CPTZ**  
Concealed Post Tie  
The unique design provides a clean, concealed connection for a premium look. Also provides the code-required 1" standoff above concrete to help prevent rot at the post end.

**RPBZ**  
Retrofit Post Base  
The RPBZ retrofit post base is designed to reinforce existing posts and columns. The single, versatile model will fit on any size post consisting of a double 2x4 or larger.

**ABA/ABU/ABW**  
Adjustable and Standoff Post Bases  
Post bases that install on hardened concrete and provide a 1" standoff at the bottom of the post to help prevent moisture rot. Slotted to adjust around the anchor bolt for optimum post placement.

**EPB**  
Elevated Post Base  
These cast-in-place post bases provide a secure connection to the concrete and the code-required 1" standoff to help prevent rot at the post end.

**PB**  
Post Base  
The PB post base provides a connection between a post (or column) for decks, patio covers and other top-supported structures.

**PBS**  
Post Base  
PBS post base provides a connection between a post (or column) for decks, patio covers and other top-supported structures. It has a 1" standoff to reduce potential decay of post and column ends.

18. The product names are also used on the individual product line pages of the Simpson website to identify the particular models available for each product line, and, in particular, in charts identifying the load values and other specifications for each available model, as shown in the examples below (annotated in red) from the "BC/BCS Post Cap" product page at [https://www.strongtie.com/onepiecepostcaps\\_postcaps/bc-bcs\\_productgroup\\_wcc/p/bc.bcs#LoadTables](https://www.strongtie.com/onepiecepostcaps_postcaps/bc-bcs_productgroup_wcc/p/bc.bcs#LoadTables).

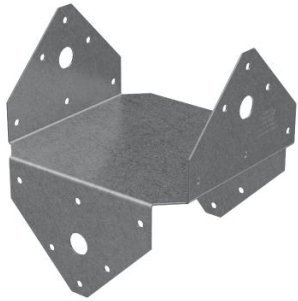
USA / Canada | Change Location...

Search strongtie.com

Products Solutions Technology Resources Customer Service Where to Buy For Homeowners About

Home > Connectors > Wood Construction Connectors > Bases and Caps > Post Caps > One-Piece Post Caps

## BC/BCS Post Caps



The **BCS** allows for the connection of (2) 2x's to a 4x post or (3) 2x's to a 6x post. Double-shear nailing between beam and post gives added strength. The **BC** series offers dual-purpose post cap/base for light cap or base connections.

**Material**

- 18 gauge

**Finish**

- Galvanized. Some products available in ZMAX® coating. See Corrosion Information.

**Installation**

- Use all specified fasteners; see General Notes
- Do not install bolts into pilot holes
- BCS** - install dome nails on beam; drive nails at an angle through the beam into the post below to achieve the table loads
- BC** - install with 0.162" x 3 1/2" nails or 0.162" x 2 1/2" joist hanger nails
- Post bases do not provide adequate resistance to prevent members from rotating about the base and therefore are not recommended for non-top-supported installations (such as fences or unbraced carports)
- To tie multiple 2x members together, the Designer must determine the fasteners required to join members to act as one unit without splitting the wood

## Load Tables

These products are available with **additional corrosion protection**. Additional products on this page may also be available with this option, **check with Simpson Strong-Tie** for details.

For stainless-steel fasteners, see **Fastener Types and Sizes Specified for Simpson Strong-Tie Connectors**.

Many of these products are approved for installation with **Strong-Drive® SD Connector screws**.

Model No.	Dimensions (in.)						Fasteners (in.)			Allowable Loads (DF/SP) (160)	
	W <sub>1</sub>	W <sub>2</sub>	L <sub>1</sub>	L <sub>2</sub>	H <sub>1</sub>	H <sub>2</sub>	Beam Flange	Post Flange	Base Bottom	Uplift	Lateral
<b>Caps</b>											
BC4	3 <sup>3</sup> / <sub>8</sub>	3 <sup>3</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	3	3	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	605	1,000
BC46	3 <sup>3</sup> / <sub>8</sub>	5 <sup>1</sup> / <sub>2</sub>	4 <sup>7</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	3 <sup>1</sup> / <sub>2</sub>	2 <sup>1</sup> / <sub>2</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	945	1,000
BC4R	4	4	4	4	3	3	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	605	1,000
BC6	5 <sup>1</sup> / <sub>2</sub>	5 <sup>1</sup> / <sub>2</sub>	4 <sup>3</sup> / <sub>8</sub>	4 <sup>3</sup> / <sub>8</sub>	3 <sup>3</sup> / <sub>8</sub>	3 <sup>3</sup> / <sub>8</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	1,185	1,825
BC6R	6	6	6	6	3	3	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	1,185	1,825
BC8	7 <sup>1</sup> / <sub>2</sub>	7 <sup>1</sup> / <sub>2</sub>	7 <sup>1</sup> / <sub>2</sub>	7 <sup>1</sup> / <sub>2</sub>	4	4	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	1,660	1,825
BCS2-2/4	3 <sup>1</sup> / <sub>8</sub>	3 <sup>3</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	2 <sup>1</sup> / <sub>8</sub>	2 <sup>1</sup> / <sub>8</sub>	(8) 0.148 x 3	(6) 0.148 x 3	—	895	890
BCS2-3/6	4 <sup>3</sup> / <sub>8</sub>	5 <sup>3</sup> / <sub>8</sub>	4 <sup>3</sup> / <sub>8</sub>	2 <sup>7</sup> / <sub>8</sub>	3 <sup>3</sup> / <sub>8</sub>	2 <sup>1</sup> / <sub>8</sub>	(12) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	—	895	1,330
<b>Bases</b>											
BC40	3 <sup>3</sup> / <sub>8</sub>	—	3 <sup>1</sup> / <sub>4</sub>	—	2 <sup>1</sup> / <sub>4</sub>	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	510	735
BC40R	4	—	4	—	3	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	510	735
BC460	5 <sup>1</sup> / <sub>2</sub>	—	3 <sup>3</sup> / <sub>8</sub>	—	3	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	450	735
BC60	5 <sup>1</sup> / <sub>2</sub>	—	5 <sup>1</sup> / <sub>2</sub>	—	3	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	450	735
BC60R	6	—	6	—	3	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	450	735
BC80	7 <sup>1</sup> / <sub>2</sub>	—	7 <sup>1</sup> / <sub>2</sub>	—	4	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	450	735
BC80R	8	—	8	—	4	—	—	(6) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	(4) 0.162 x 3 <sup>1</sup> / <sub>2</sub>	450	735



## 2. Simpson's Use Of Product Names In Its Catalogs And Publications

19. Simpson also uses its proprietary product names to identify its various product lines and models throughout its popular product catalogs, which are available in hardcopy and online formats, including its Wood Construction Connectors Catalog. The Wood Construction Connectors Catalog provides detailed information about each product, including load values, specifications, code approvals, and other information used by engineers, code-approval agencies, building departments, and others. Among other things, the Wood Construction Connectors Catalog contains an "Alphabetical Product Index" that lists (a) the Part Name for the product line, (b) a brief description of the product line, and (c) the page number(s) in the catalog where that product line can be found, as shown below in an example from the 2019-2020 Wood Construction Connectors Catalog, which is the most recently published version. A true and correct copy of the complete 2019-2020 Wood Construction Connectors Catalog is attached and incorporated by reference as Exhibit A.

**Simpson Strong-Tie® Wood Construction Connectors**

**Alphabetical Product Index**

**SIMPSON Strong-Tie**

**Value Engineered**

**4**

**Simpson Strong-Tie® Wood Construction Connectors**

**Alphabetical Product Index**

**SIMPSON Strong-Tie**

**5**

20. Like the Simpson website, the Simpson catalogs also employ product names on



nearly every page to identify product lines (such as HDU) and product models (such as HDU8-SDS2.5), often in charts identifying the dimensions and load values, and other important information, for each available model. An example of such usage from page 53 of the 2019-2020 Wood Construction Connectors Catalog is shown below with annotations in red.

**Simpson Strong-Tie® Wood Construction Connectors**

**HDU/DTT**

**Holdowns (cont.)**

These products are available with additional corrosion protection. For more information, see p. 15.

For stainless-steel fasteners, see p. 21.

Many of these products are approved for installation with Strong-Drive® SD Connector screws. See pp. 335-337 for more information.

Model No.	Ga.	Dimensions (in.)					Anchor Bolt Dia. (in.)	Fasteners (in.)	Minimum Wood Member Size (in.)	Allowable Tension Loads (lb)			Code Ref.	
		W	H	B	CL	SD				DF/SP	SPF/NF	Deflection at Allowable Load (in.)		
DTT1Z	14	1 1/2	7 1/2	1 1/2	3/4	3/4	3/4	(5) SD #9 x 1 1/2 (5) 0.148 x 1 1/2 (5) 0.148 x 1 1/2	1 1/2 x 5 1/2	840	840	0.17	IBC, FI, LA	
DTT2Z	14	3 1/2	6 1/2	1 1/2	3/4	3/4	3/4	(5) 1/2 x 1 1/2 SDS (5) 1/2 x 1 1/2 SDS (5) 1/2 x 2 1/2 SDS	1 1/2 x 3 1/2 3 x 3 1/2 3 x 3 1/2	1,825 2,145 2,145	1,800 1,835 2,305	0.105 0.128 0.128		
DTT2Z-SDS2.5	14	3 1/2	6 1/2	1 1/2	3/4	3/4	3/4	(5) 1/2 x 1 1/2 SDS (5) 1/2 x 2 1/2 SDS	3 x 3 1/2 3 x 3 1/2	2,145 2,145	1,835 2,305	0.128 0.128		
HDU2-SDS2.5	14	3	8 1/2	3 1/2	1 1/2	1 1/2	1 1/2	(5) 1/2 x 2 1/2 SDS	3 x 3 1/2	3,075	2,215	0.088		
HDU4-SDS2.5	14	3	10 1/2	3 1/2	1 1/2	1 1/2	1 1/2	(10) 1/2 x 2 1/2 SDS	3 x 3 1/2	4,565	3,285	0.114		
HDU5-SDS2.5	14	3	13 1/2	3 1/2	1 1/2	1 1/2	1 1/2	(14) 1/2 x 2 1/2 SDS	3 x 3 1/2	5,645	4,240	0.115		
HDU8-SDS2.5	10	3	16 1/2	3 1/2	1 1/2	1 1/2	1 1/2	(20) 1/2 x 2 1/2 SDS	3 x 3 1/2 3 1/2 x 3 1/2 3 1/2 x 4 1/2	6,765 6,970 7,870	5,820 5,995 6,580	0.11 0.116 0.113		
HDU11-SDS2.5	10	3	22 1/2	3 1/2	1 1/2	1 1/2	1	(30) 1/2 x 2 1/2 SDS	3 1/2 x 5 1/2 3 1/2 x 7 1/2 3 1/2 x 5 1/2	9,335 11,175 10,770	8,030 9,610 9,260	0.137 0.137 0.122		
HDU14-SDS2.5	7	3	25 1/2	3 1/2	1 1/2	1 1/2	1	(35) 1/2 x 2 1/2 SDS	3 1/2 x 7 1/2 5 1/2 x 5 1/2	14,390 14,445	12,375 12,425	0.177 0.172		IBC, FI, LA

1. HDU14 requires heavy-hex anchor nut to achieve tabulated loads (supplied with holdown).  
2. HDU14 loads on 4x6 post are applicable to installation on either the narrow or the wide face of the post.

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Typical HDU Tie Between Floors

UPDATED 06/01/19

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21. Simpson owns more than two hundred federally registered copyrights covering its catalogs and other original works of authorship. Many of the registered works, including all of the registered Wood Construction Connectors Catalogs going back to 2000, contain an alphabetical product index of Simpson connector and fastener products similar to the Alphabetical Product Index described above. The chart below is a list of registered Wood Construction Connectors Catalogs and supplements to that catalog, dating back to 2000.

Registration No.	Year(s)
TX0005213949	2000
TX0005323926	2001
TX0006144849	2002
TX0006144850	2003
TX0006139477	2004
TX0006141584	2005
TX0006483414	2006
TX0006483411	2007
TX0007238001	2008
TX0007204677	2009-2010
TX0007204672	2010 Addendum
TX0007336772	2011-2012
TX0007514002	2012 Addendum
TX0007663107	2013-2014
TX0007815401	2014 Addendum
TX0008003635	2015-2016
TX0008432911	2017-2018
TX0008756447	2019-2020

22. Simpson also uses its product names in other written materials, including product guides, advertising flyers, brochures, and technical bulletins.

### 3. Simpson's Use Of Product Names On Product Packaging And Point-of-Sale Marketing Materials


23. Simpson also uses its proprietary product names, including both Part Names and Model Numbers, prominently on product packaging, product labels, carton labels, shelf tags, and other point-of-sale marketing materials, as shown in the examples below.

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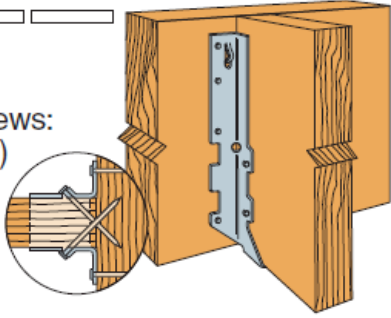

# LUS210

## JOIST HANGER – 2x10 / 2x12

Double-shear nailing innovation distributes the load through two points on each joist nail, providing greater strength

Corrosion Resistance Level  
  
**LOW**

**Strong-Drive® SD**  
**CONNECTOR Screws:**  
 (8) #9 x 1½" (Header)  
 (4) #9 x 2½" (Joist)  
**OR Nails:**  
 (8) 10d (Header)  
 (4) 10d (Joist)

0 44315 68400 5

PI-LUS210 4in      See [strongtie.com/info](http://strongtie.com/info) for proper use, limitations, warnings and warranties.



#### D. MiTek Acquires USP's Line Of Structural Connectors And Fasteners, And Attempts To Compete With Simpson

24. According to its website, MiTek is a global supplier of software, engineered construction products and services, and automated manufacturing equipment. On information and belief, in 2011, MiTek acquired USP Structural Connectors ("USP"), one of the companies in the structural connector and fastener market with Simpson. USP offered – and now MiTek offers – competing versions of many of Simpson's structural connectors and fasteners. Indeed, as explained above, many of MiTek's products are knock-offs or close copies of products that

1 Simpson first brought to market. MiTek is thus a direct competitor of Simpson.

2 25. MiTek attempts to compete with Simpson, not just by offering knock-offs of  
3 Simpson products, but also by trying to convince consumers (particularly the engineers that  
4 specify Simpson products) explicitly and implicitly that the MiTek products are equivalent to or  
5 sufficient substitutes for Simpson products. MiTek has admitted in other litigation in this Court  
6 that Simpson's products are frequently specified by the product name and that MiTek has had to  
7 compete for business by going back to the engineer of record and attempting to prove that the  
8 MiTek product is equivalent to the Simpson product. Indeed, MiTek publishes a "Dual  
9 Specification Guide," available on its website at [https://www.mitek-](https://www.mitek-us.com/uploadedFiles/_RedesignSite/Content/documents/products/Specify_Docs/MiTek-Engineering_Dual_Spec_Sheet.pdf)  
10 [us.com/uploadedFiles/\\_RedesignSite/](https://www.mitek-us.com/uploadedFiles/_RedesignSite/Content/documents/products/Specify_Docs/MiTek-Engineering_Dual_Spec_Sheet.pdf) Content/documents/products/Specify\_Docs/MiTek-  
11 Engineering\_Dual\_Spec\_Sheet.pdf, for the express purpose of recommending to engineers how  
12 they can specify MiTek products along with Simpson products.

13 26. While some of the MiTek versions of Simpson products may perform  
14 substantially the same as the Simpson product, many of the MiTek versions have different load  
15 values or other important attributes. For example, many of Simpson's products are patented, and  
16 therefore MiTek is precluded from copying the innovative features of Simpson's products that  
17 are covered by the patents during the life of the patents. As noted above, Simpson invests heavily  
18 in research and development and Simpson has obtained more than 900 patents over the course of  
19 its sixty-year history, the majority of which have been obtained in the past twenty years. In other  
20 cases where Simpson does not have patent protection for a product, the MiTek knock-off is  
21 inferior in other ways. A simple comparison of Simpson's products to MiTek's knock-offs  
22 demonstrates that in many, if not most, cases, the MiTek products are not equivalent to  
23 Simpson's products.

24 **E. MiTek's Improper And Infringing Use Of Simpson's Product Names**

25 27. MiTek has engaged in a pattern and practice of improperly copying and using  
26 Simpson proprietary and copyright-protected product names to market and sell MiTek's  
27 competing products. MiTek misuses and infringes Simpson's product names in two distinct  
28 ways. First, as described in detail below, MiTek has copied Simpson proprietary names and used

them, with no or minimal variation, as MiTek Part Names and “Stock Numbers” (which include letters and numbers) used to identify MiTek products. Second, as also described below, MiTek has also used Simpson proprietary product names, without authorization or attribution, as “Reference Numbers” (when referring to the full Simpson Model Number for the particular product model) or “Reference Series” (when referring to the Simpson Part Name for the product line). MiTek’s improper and infringing use of Simpson proprietary product names as MiTek Part Names, Stock Numbers, and Reference Numbers is widespread on MiTek’s website, mobile software application, product catalogs, carton labels, product labels, shelf tags, and other point-of-purchase materials.

# **1. MiTek’s Use Of Simpson Product Names With Its Own Part Names And Stock Numbers**

28. Every structural connector and fastener marketed and sold by MiTek has a MiTek product name. Just like Simpson’s product names, the MiTek product names consist of both a Part Name that designates the product line and a “Stock Number” that designates the particular models available for each product line. For example, MiTek markets a multi-purpose angle with the part name ML and with two stock numbers, the ML24-TZ and the ML26-TZ.

29. Many of the MiTek Part Names are identical to or very similar to pre-existing Simpson Part Names. The reason for this is that, when MiTek (or, previously, USP) copied a pre-existing Simpson product or brought its own version of a patented Simpson product to market, it often copied not only the product itself but also the pre-existing Simpson Part Name. For example, the MiTek ML angle described above is a knock off of Simpson’s very similar angle with the very same Part Name. The chart below provides an example of just some of the MiTek Part Names that are identical to pre-existing Simpson Part Names.

<b>Simpson Part Name</b>	<b>MiTek Part Name</b>
A	A
AC	AC
BC	BC
BCS	BCS
BP	BP

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<b>Simpson Part Name</b>	<b>MiTek Part Name</b>
CBSQ	CBSQ
CMST	CMST
CMSTC	CMSTC
CNW	CNW
DSC	DSC
EPB	EPB
FB	FB
FWH	FWH
GT	GT
HGA	HGA
HGAM	HGAM
HGU	HGU
HGUM	HGUM
HH	HH
HL	HL
HPA	HPA
HRS	HRS
HTC	HTC
HTT	HTT
HUS	HUS
IS	IS
L	L
LBP	LBP
LFTA	LFTA
LGU	LGU
LGUM	LGUM
LSTA	LSTA
LSTI	LSTI
MGU	MGU
ML	ML
MSTA	MSTA
MSTAM	MSTAM
MSTC	MSTC
MSTCM	MSTCM
MUS	MUS
PA	PA
PAI	PAI
RBC	RBC
RC	RC



Simpson Part Name	MiTek Part Name
RR	RR
ST	ST
STC	STC
T	T
TSP	TSP
WB	WB
WT	WT

30. Even when MiTek does not *identically* copy Simpson Part Names for its own products, it still copies Simpson. Many MiTek Part Names are substantially similar to Simpson Part Names, with just a single letter that is different. These MiTek Part Names are clearly based on and confusingly similar to the Simpson Part Names. The chart below provides an example of just some of the MiTek Part Names that are just one letter different than pre-existing Simpson Part Names.

Simpson Part Name	MiTek Part Name
BPS	HBPS
CB	KCB
CBS	CBE
CC	KCC
CCC	KCCC
CCOB	KCCOB
CCQ/CCOQ	KCCQ
CCT	KCCT
CCTQ	KCCQT
ECC/ECCU	KECC
ECCL	KECCL
ECCO	KECCO
ECCQ/ECCOQ	KECCQ
EG	KEG
EGQ	KEGQ
EPCZ	EPCM
FWANZ	FWAN
GLB	KGLB
HGLB	KHGLB

<b>Simpson Part Name</b>	<b>MiTek Part Name</b>
HWP/HWPH	HWUH
LB	KLB
LEG	KLEG
LTT/LTTI	LTS
MEG	KMEG
MSC	MSH
MSTCBZ	MSTCB
PBV	PBS
PCZ	PCP
RP6	RP
RPBZ	RPB
SBV	SB
TSF	TS

31. Just like the MiTek Part Names that designate the MiTek product line, the MiTek Stock Numbers that designate the MiTek product models are often copies of, and substantially similar to, the Simpson Model Numbers for similar Simpson products. Once again, the reason for this is simple. When Mitek (or USP) introduced its version of an existing Simpson connector or fastener, MiTek (or USP) likewise copied the Simpson Model Number. The chart below provides an example of just some of the MiTek Stock Numbers that are identical or substantially similar to Simpson Model Numbers.

<b>Simpson Model No.</b>	<b>MiTek Stock No.</b>
1212T	T1212
A66	B66
A88	B88
ABA44Z	PA44E-TZ
BC46	C46
BC6	C66
BP5/8	BP583
CB46	KCB46
CB66	KCB66
CS18-R	RS18-R
CS22-R	RS22-R
EPC44-16	EPCM4416

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<b>Simpson Model No.</b>	<b>MiTek Stock No.</b>
EPC64-16	EPCM6416
HGA10KT	HGA10KT
HRS12	HRS12
HRS6	HRS6
HRS8	HRS8
HUS26	HUS26
HUS28	HUS28
LBP1/2	LBP12-TZ
LSTA12	LSTA12
LSTA15	LSTA15
LSTA18	LSTA18
LSTA21	LSTA21
LSTA24	LSTA24
LSTA30	LSTA30
LSTA36	LSTA36
LSTA9	LSTA9
LUS26	JUS26
MSTA12	MSTA12
MSTA12Z	MSTA12-TZ
MSTA18	MSTA18
MSTA24	MSTA24
MSTA30	MSTA30
MSTA36	MSTA36
MSTAM24	MSTAM24
MSTAM36	MSTAM36
MTS12Z	MTW12-TZ
PA18	PA18
PA23	PA23
PS218	PS218-HDG
RBC	RBC
RPS18	KRPS18
RPS22	KRPS22
RR	RR
SP4	SPT4
SS1.5	STS1
ST12	ST12
ST18	ST18
ST22	ST22
ST9	ST9

Simpson Model No.	MiTek Stock No.
WB126	WB126

## 2. MiTek's Use Of Simpson Product Names As Reference Numbers

32. MiTek's use of Simpson proprietary product names as the basis for MiTek product names is not the only way that MiTek makes improper, infringing, and deceptive use of Simpson product names. MiTek also uses Simpson proprietary product names as "Reference Numbers" (when referring to the full Simpson model number for the particular product model) or "Reference Series" (when referring to the Simpson part name for the product line), separate from the MiTek product names.

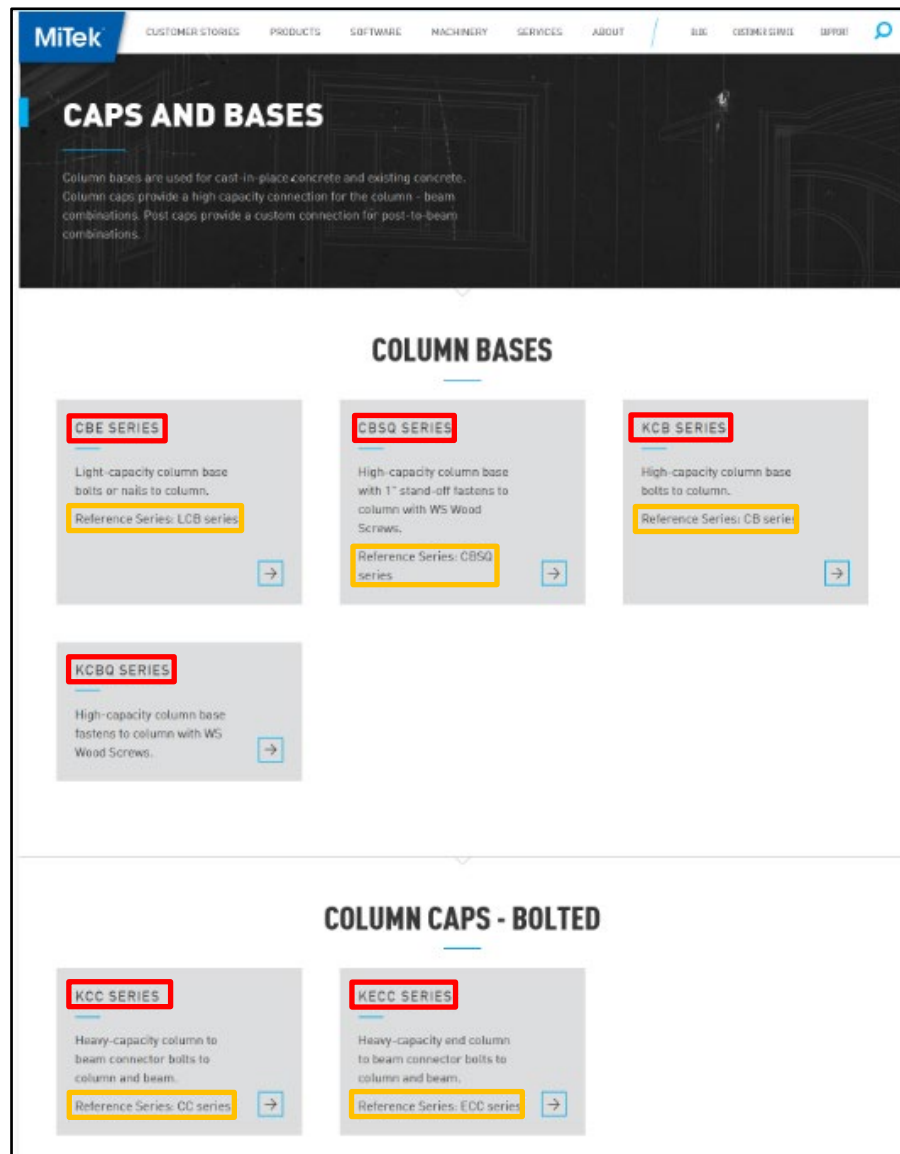
33. Simpson has not authorized, approved, or licensed MiTek to use the Simpson product names as Reference Numbers or Reference Series.

34. MiTek never identifies the Reference Numbers and Reference Series as Simpson product names. Nor does MiTek ever attribute the Reference Numbers and Reference Series to Simpson in any way, or otherwise refer to Simpson in any way in connection with the Reference Numbers and Reference Series. Nor has MiTek ever provided notice to consumers that Simpson has not authorized, approved, or licensed MiTek's use of Simpson product names as Reference Numbers or Series. The closest that MiTek comes to acknowledging that the Reference Numbers are in fact Simpson product names is a brief statement, buried in its 357-page catalog, entitled "About the Reference Numbers," which states the following: "Reference numbers shown throughout the charts in this catalog are part numbers which may be more familiar to customers in various regions of the United States. These are included for the convenience of our new customers who have recently switched from a competitor's product line to MiTek."

## 3. MiTek's Use Of Simpson Product Names On Its Website And Mobile Application

35. MiTek has improperly used, and continues to improperly use, Simpson's proprietary product names – both as the basis for MiTek's product names and as Reference Numbers – on the MiTek website and MiTek's mobile software application.

36. MiTek uses MiTek Part Names and MiTek Stock Numbers that are identical to or substantially similar to Simpson Part Names and Model Numbers throughout the MiTek website at mitek-us.com. For example, as shown in the examples below (annotated in red) from <https://www.mitek-us.com/products/connectors/caps-and-bases/> and <https://www.mitek-us.com/products/caps-bases/post-caps---one-piece/BC%20/%20BCS%20/%20C/>, MiTek uses infringing and deceptive Part Names and Stock Numbers, like the BCS product line with BCS22-4 and BCS23-6 models (when Simpson likewise offers the BCS product line with BCS2-2/4 and BCS2-3/6 models), on webpages displaying categories of product lines and on webpages displaying particular product lines.



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## CAPS AND BASES

[Home](#) / [U.S. Products](#) / [Connectors](#) / [Caps and Bases](#) / Post Caps - One-Piece

### POST CAPS

**BC / BCS / C**

**REFERENCE SERIES: BC, BCS**

**BC** - One-piece design for double 2x to a 4x post.

**BCS** - One-piece design for connecting 2-ply (BCS22-4) or 3-ply (BCS23-6) beams to the tops of 4x4 or 6x6 respectively. Slant nailing reduces the amount of nails required for the connector.

**C** - One-piece design.

**Materials:** 18 gauge

**Finish:** G90 galvanizing; BC400-TZ - G-165 galvanizing

**Code Reports:** [View Code Report Table](#)

#### RESOURCES

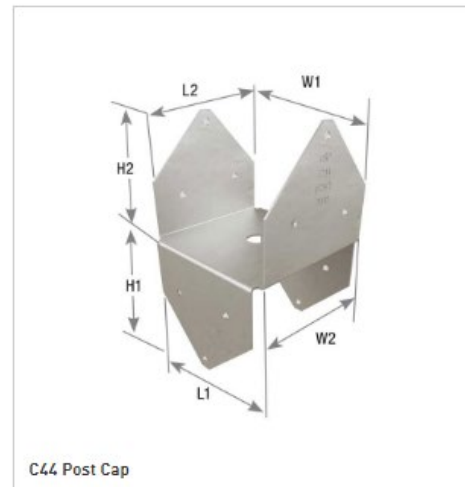
[MitTek Product Catalog](#)

#### OPTIONS

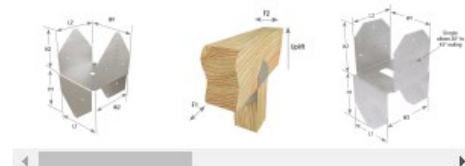
[Corrosion Resistant Products Table](#)

#### TECHNICAL BULLETINS

[Corrosion Protection Technical Bulletin](#)



C44 Post Cap



### LOAD TABLE

Post Size	MiTek Stock No.	Ref. No.	Steel Gauge	Dimensions (in)								Fastener Schedule <sup>2,3</sup>				DF/SP		
				W1	W2	H1	H2	L1	L2	Qty	Type	Qty	Type	Allowable Loads (Lbs.) <sup>1</sup>				
														Uplift 160%	F1 160%	F2 160%		
4 x 4	BCS22-4	BCS2-2/4	18	3-1/8	3-9/16	2-15/16	2-15/16	2-7/8	2-7/8	6	10d	8	10d	865	1065	--		
	BC400-TZ	--	18	3-1/8	3-9/16	2-3/8	3	3-1/2	3-5/16	10	10d x 1-1/2 HDG	8	10d x 1-1/2 HDG	615	780	580		
	C44	BC4	18	3-9/16	3-9/16	2-7/8	2-7/8	3-1/4	3-1/4	6	16d	6	16d	925	1105	1105		
4 x 4 Rough	C44R	BC4R	18	4	4	2-5/8	2-5/8	3-1/4	3-1/4	8	16d	8	16d	925	1105	1105		
4 x 6	C46	BC46	18	3-9/16	5-1/2	2-9/16	2-5/8	3-3/8	5-1/4	6	16d	10	16d	925	1105	1105		
4 x 6 Rough	C46R	--	18	4	6	2-3/4	2-3/4	3-1/4	5-1/4	8	16d	10	16d	925	1105	1105		
6 x 6	BCS23-6	BCS2-3/6	18	4-5/8	5-5/8	3	3-3/8	3-1/2	4-3/8	6	16d	12	16d	1120	1625	--		
	C66	BC6	18	5-1/2	5-1/2	2-7/8	2-7/8	5-1/4	5-1/4	12	16d	12	16d	1195	2100	2100		
6 x 6 Rough	C66R	BC6R	18	6	6	2-13/16	2-13/16	5-1/4	5-1/4	12	16d	12	16d	955	2210	2210		
8 x 8	C88	BC8	18	7-1/2	7-1/2	5	5	7-3/8	7-3/8	16	16d	16	16d	1195	2260	2260		

1) Allowable loads have been increased 60% for wind or seismic loads; no further increase shall be permitted.

2) BCS23-6: Substituting 16d x 2-1/2" nails for 16d common nails is not permitted for slant nailing.

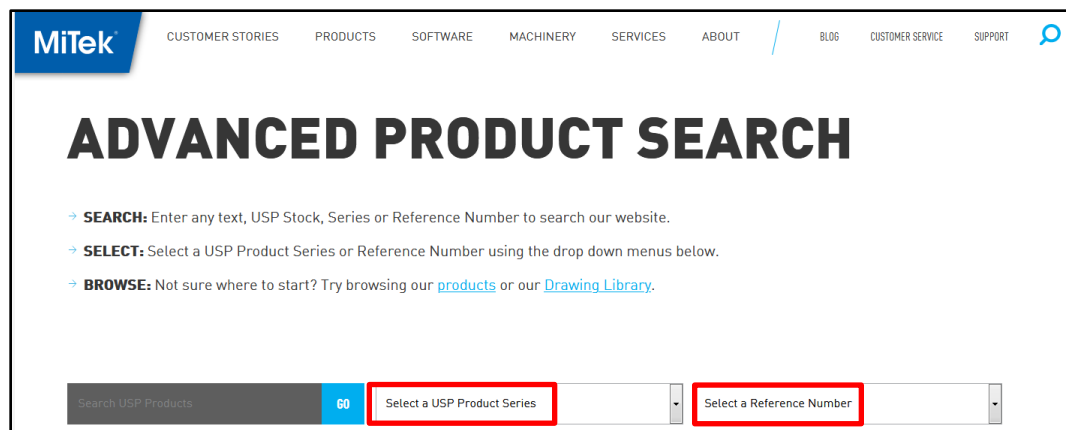
3) **NAILS:** 10d x 1-1/2" nails are 0.148" dia. x 1-1/2" long, 10d nails are 0.148" dia. x 3" long, 16d nails are 0.162" dia. x 3-1/2" long.

[View / Download the above load table as a PDF](#)



37. MiTek also uses Simpson product names as Reference Numbers and Reference Series in the manner described above throughout the MiTek website. For example, as shown in the examples above (annotated in yellow), MiTek lists BCS as the Reference Series and a variety of Reference Numbers including BCS2-2/4 and BCS2-3/6 on the webpage for its BCS product. As also shown in the examples above, MiTek, in particular, lists the Reference Numbers in charts identifying the load values and other specifications for each available model.

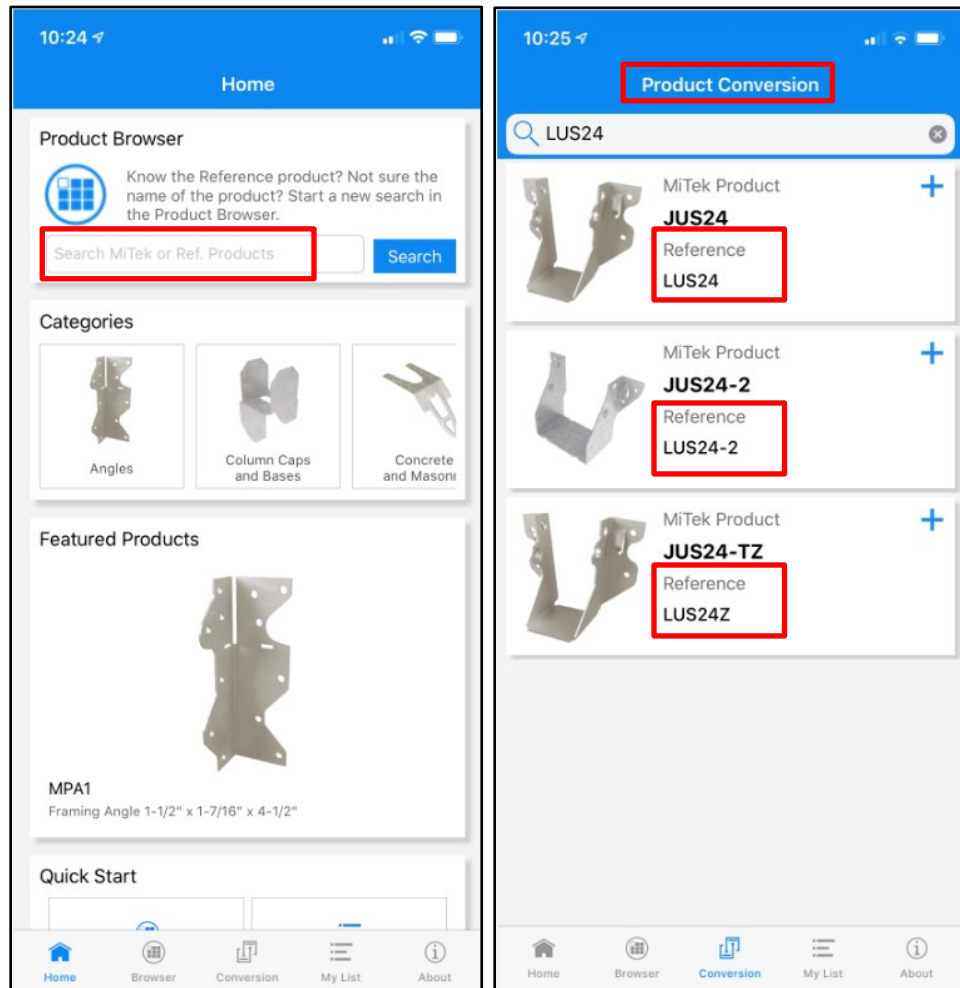
38. MiTek's website also has, as shown below (annotated in red) at <https://www.mitek-us.com/advanced-search/>, a feature called "Advanced Product Search" that enables users of the website to search for MiTek products based on the Reference Numbers/Series (*i.e.*, the Simpson Part Name). For example, a user that selected the Reference Number of "EGQ" (*i.e.*, the Simpson Part Name for a Simpson high-capacity top-flange hanger) would be taken to the webpage of the MiTek website describing a MiTek hanger.



39. MiTek also offers a software application for users of mobile devices with iOS and Android operating systems available at the Apple App Store and Google Play Store. MiTek's iOS and Android software applications are substantially the same and are collectively referred to herein as the "App."

40. MiTek improperly uses Simpson's proprietary product names as the basis for MiTek's product names and as Reference Numbers and Reference Series on the App, just as it does on its website, as shown in the examples below (annotated in red). The App also has search functionality similar to the Advanced Product Search feature of the MiTek website that allows

users of the App to search for MiTek products using MiTek product names and Reference Numbers. The App also has a “Product Conversion” feature that allows a user to input a Reference Number (*i.e.*, Simpson product name) that the App then “converts” into a MiTek product, as also shown in the examples below.



#### 4. MiTek’s Use Of Simpson Product Names In Its Catalogs And Publications

41. MiTek has improperly used, and continues to improperly use, Simpson’s proprietary product names – both as the basis for MiTek’s product names and as Reference Numbers and Reference Series – in the MiTek product catalog and in other published MiTek documents.

42. Like the Simpson Wood Construction Connectors Catalog, the MiTek product

catalog is published in an online and hardcopy format and contains detailed information about each MiTek product, including load values, specifications, code approvals, and other information used by engineers, code-approval agencies, building departments, and others. MiTek last published a version of its product catalog in 2020 (the "2020 Catalog"). A true and correct copy of the 2020 Catalog is attached and incorporated by reference as Exhibit B.

43. The MiTek 2020 Catalog misuses Simpson product names on nearly every page as the basis for MiTek product names and as Reference Numbers, in the same manner as the MiTek webpage. An example of such usage from page 62 of the 2020 Catalog is shown below, with annotations in red showing use of Simpson product names as MiTek Part Names and Stock Numbers and annotations in yellow showing use of Simpson product names as Reference Numbers.

**KGLB / KGLBT / KHGLB** Laminated Beam Seats Concrete & Masonry

**KGLB** – Single bolt, bearing only  
**KGLBT** – Double bolt with structural tee provides uplift and horizontal resistance  
**KHGLB** – Double bolt design provides uplift and horizontal resistance

**Materials:** Flanges – 1/4" steel  
 Bearing Plate – See chart for "T" dimension  
 Anchor Dowels – 3/4" x 12" rebar

**Finish:** Primer  
**Options:** Consult MiTek for non-catalog variations.

**Installation:**  
 • Use all specified fasteners. See Product Notes, page 18.  
 • Bolt holes shall be a minimum of 1/32" to a maximum of 1/16" larger than the bolt diameter.  
 • Concrete or masonry walls must be checked by a design professional for adequacy to resist lateral or uplift loads transferred from the beam seat anchor.

**Typical KGLB installation**

**KGLB Load Table**

MiTek USP Stock No.	Ref. No.	Dimensions (in)				Bolt Schedule	Allowable Bearing Loads (Lbs.) <sup>1,2</sup>		Code Ref.
		W	L	T	D		Masonry @ 375 psi	Concrete <sup>3</sup>	
KGLB5A	GLB5A	5-1/4"	7	1/4"	5	1	5/8	11790	11790
KGLB5B	GLB5B	5-1/4"	7	3/8"	6	1	5/8	14145	14145
KGLB5C	GLB5C	5-1/4"	7	3/8"	7	1	5/8	16505	16505
KGLB5D	GLB5D	5-1/4"	7	3/8"	8	1	5/8	18860	18860
KGLB7A	GLB7A	6-7/8"	9	1/4"	5	1	3/4	15525	15525
KGLB7B	GLB7B	6-7/8"	9	3/8"	6	1	3/4	18630	18630
KGLB7C	GLB7C	6-7/8"	9	3/8"	7	1	3/4	21735	21735
KGLB7D	GLB7D	6-7/8"	9	3/8"	8	1	3/4	24840	24840

1) Beams must fully bear on plates.  
 2) The loads are based on the bearing value listed times the bearing area equal to W x D. (Note that full bearing plate area is not used.) Bearing loads shall be reduced where limited by wood bearing on the plate.  
 3) The loads on concrete are based on allowable wood bearing stress perpendicular to the grain of 460 psi and actual beam width times beam bearing length.  
 4) Designer shall specify minimum edge and spacing requirements in masonry or concrete structure.  
 5) Concrete or masonry support structure is assumed adequate to support loads listed.

**KHGLB / KGLBT Load Table**

MiTek USP Stock No.	Ref. No.	Dimensions (in)				Bolt Schedule	Allowable Bearing Loads (Lbs.) <sup>1,2</sup>					F <sub>2</sub> <sup>3,4</sup> Uplift 160 <sup>5</sup>	Code Ref.	
		Range W	D	L	T		Qty	On Concrete with Beam Width <sup>2</sup>	5-1/8"	6-3/4"	8-3/4"			10-3/4"
KHGLB1A	HGLB1A	3-1/4" to 9"	5	10	3/8"	2	3/4	18750	11790	15525	20175	—	9670	3005
KHGLB1B	HGLB1B	3-1/4" to 9"	6	10	3/8"	2	3/4	22500	14145	18630	24150	—	9670	3005
KHGLB1C	HGLB1C	3-1/4" to 9"	7	10	3/8"	2	3/4	26250	16505	21735	28175	—	9670	3005
KHGLB1D	HGLB1D	3-1/4" to 9"	8	10	3/8"	2	3/4	30000	18860	24840	32200	—	9670	3005
KGLBT512	—	3-1/4" to 11"	5-1/4"	12	5/16"	2	3/4	24750	12965	17080	22140	27200	9670	3005
KGLBT516	—	3-1/4" to 11"	6-1/2"	12	5/16"	2	3/4	29550	15325	20185	26165	32145	9670	3005
KGLBT516	—	3-1/4" to 15"	5-1/4"	16	5/16"	2	3/4	27200	12965	17080	22140	27200	9670	3005
KGLBT516	—	3-1/4" to 15"	6-1/2"	16	5/16"	2	3/4	32145	15325	20185	26165	32145	9670	3005
KGLBT520	—	3-1/4" to 19"	5-1/4"	20	5/16"	2	3/4	27200	12965	17080	22140	27200	9670	3005
KGLBT520	—	3-1/4" to 19"	6-1/2"	20	5/16"	2	3/4	32145	15325	20185	26165	32145	9670	3005

1) Beams must fully bear on plates.  
 2) The loads on concrete are based on allowable wood bearing stress perpendicular to the grain of 460 psi and actual beam width times beam bearing length.  
 3) Allowable loads have been increased 60% for wind or seismic loads and are based on bolt in wood values only.  
 4) Loads assume concrete or masonry structure is adequate to resist loads in these directions.  
 5) Loads must be reduced if the allowable lateral load (F<sub>2</sub>) for masonry or concrete columns governs.  
 6) Designer shall specify minimum edge and spacing requirements in masonry or concrete structure.

62 MiTek® Product Catalog

[illegible]

- 24 -

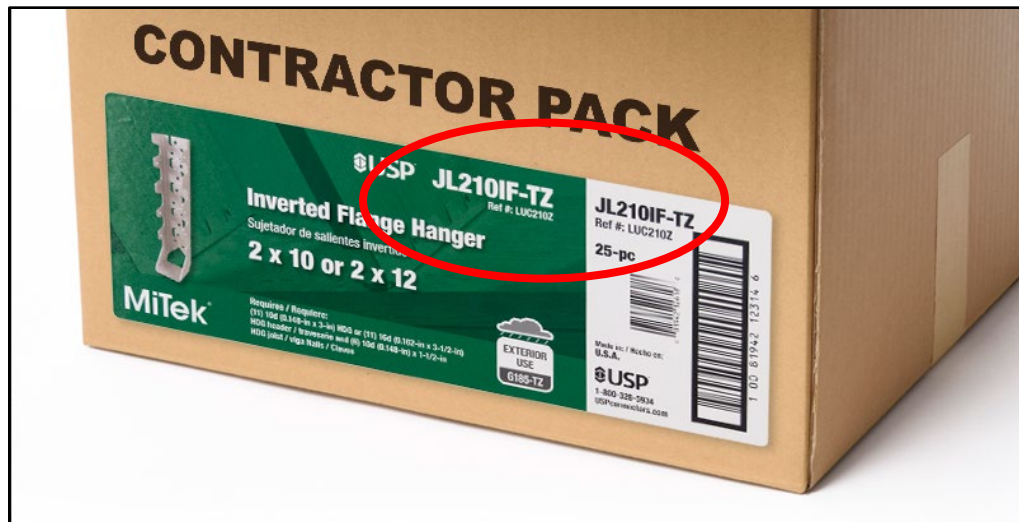
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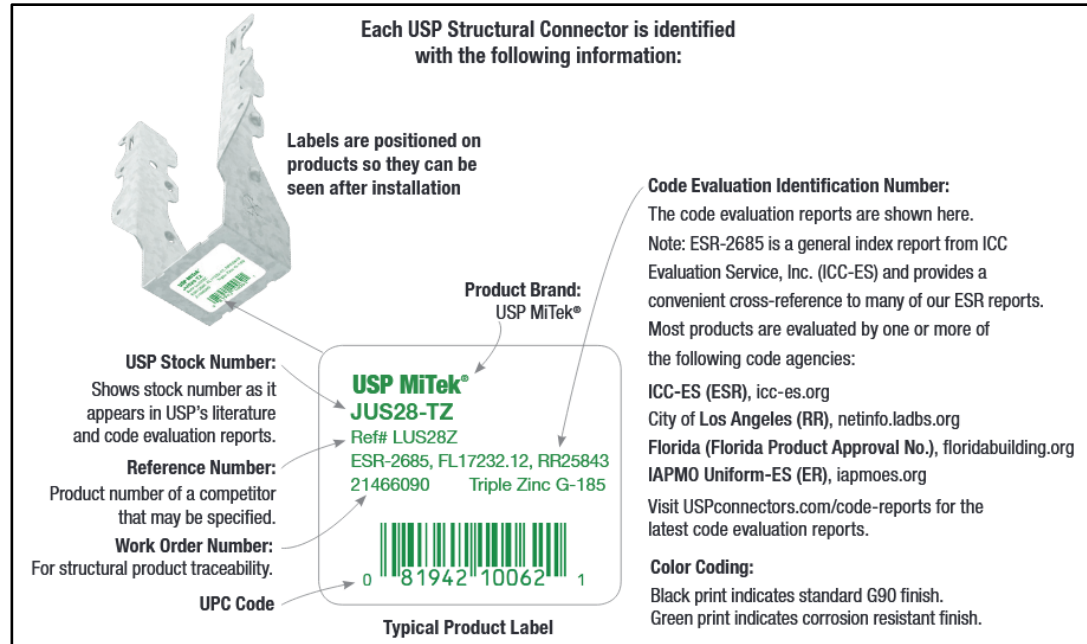
## 5. MiTek's Use Of Simpson Product Names On Product Packaging And Point-of-Sale Marketing Materials

46. MiTek has likewise improperly used, and continues to improperly use, Simpson's proprietary product names – both as the basis for MiTek's product names and as Reference Numbers and Reference Series – on MiTek product packaging, product labels, carton labels, shelf tags, and other point-of-sale marketing materials.

47. MiTek uses Simpson product names as MiTek product names and Reference Numbers on product labels and carton labels, as shown in the example below (annotated in red). Indeed, MiTek's "Product Identification and Labeling" publication, available on its website at [https://www.mitek-us.com/uploadedFiles/\\_RedesignSite/Content/documents/products/product-id-labeling.pdf](https://www.mitek-us.com/uploadedFiles/_RedesignSite/Content/documents/products/product-id-labeling.pdf), makes clear that labels for every product or carton of products include the Stock Number and Reference Number, as also shown below.







48. MiTek also uses Simpson product names as MiTek product names and Reference Numbers on shelf tags and related point-of-sale marketing material, as shown in the examples below (annotated in red) from MiTek's Dealer Merchandising Guide, available on MiTek's website at [https://www.mitek-us.com/uploadedFiles/\\_RedesignSite/Content/documents/products/mittek-dealer-merchandising-guide.pdf](https://www.mitek-us.com/uploadedFiles/_RedesignSite/Content/documents/products/mittek-dealer-merchandising-guide.pdf). A true and correct copy of the Dealer Merchandising Guide is attached and incorporated by reference as Exhibit D.



#### F. MiTek's Use Of Simpson Product Names Is False And Misleading, And Deceives Or Is Likely To Deceive Consumers

49. MiTek's use of Simpson proprietary product names as the basis for MiTek product names and as Reference Numbers constitutes explicitly and implicitly false statements to consumers about the nature, characteristics, and/or qualities of its products on MiTek's website, mobile software applications, product catalogs, carton labels, product labels, shelf tags, and other

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1 marketing and point-of-sale materials. MiTek makes these false and misleading statements  
2 incorporating Simpson product names with the intent to induce consumers to purchase MiTek  
3 products, and these statements have a tendency to deceive, are likely to deceive, and have  
4 actually deceived consumers about MiTek and Simpson products, as described below.

5 50. MiTek's use of Part Names and Stock Numbers that are identical to or  
6 substantially similar to pre-existing Simpson Part Names and Model Numbers in the manner  
7 described above is false and misleading, and deceives consumers in a number of ways. First, use  
8 of a Simpson product name as a MiTek product name is a literally false statement that the MiTek  
9 product is, in fact, a Simpson product. In other words, MiTek's identical and substantially similar  
10 product names pass off MiTek products as Simpson products. For example, a MiTek shelf tag  
11 using "BP" to identify a product falsely identifies the product as Simpson's BP product, when  
12 that is not true. Second, use of a MiTek product name that is identical or substantially similar to a  
13 Simpson product name is also false in that it necessarily implies that Simpson and MiTek are  
14 affiliated in some way or that Simpson has authorized, endorsed, or approved of MiTek's use of  
15 the identical or substantially similar product name. Third, use of a MiTek product name that is  
16 identical or substantially similar to a Simpson product name also necessarily and falsely implies  
17 that the MiTek product is equivalent to the Simpson product. Even if some consumers become  
18 aware that MiTek's products are not Simpson products, and are not affiliated with or endorsed by  
19 Simpson, the use of identical or substantially similar product names necessarily and falsely  
20 implies that the two products are equivalent, when in fact they are not.

21 51. Even when the MiTek product name is not identical or substantially similar to a  
22 Simpson product name, MiTek's use of Simpson product names as Reference Numbers and  
23 Reference Series in the manner described above is likewise false and misleading, and deceives  
24 consumers in a number of ways. First, use of a Simpson product name as a Reference Number is  
25 a literally false statement that the MiTek product identified by the Reference Number is the  
26 "referenced" Simpson product. As with MiTek's use of Simpson product names as MiTek  
27 product names, using Simpson product names as Reference Numbers passes off MiTek products  
28 as Simpson products. For example, a MiTek shelf tag with the TAZ Reference Number falsely

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1 identifies the product as Simpson's TAZ product, when that is not true. Second, use of a  
2 Simpson product name as a Reference Number is also false in that it necessarily implies that  
3 Simpson and MiTek are affiliated in some way or that Simpson has authorized, endorsed, or  
4 approved of MiTek's use of the proprietary Simpson product name as a Reference Number.  
5 Third, use of a Simpson product name as a Reference Number also necessarily and falsely  
6 implies that the MiTek product is equivalent to the Simpson product. Even if some consumers  
7 become aware that MiTek's products are not Simpson products, and are not affiliated with or  
8 endorsed by Simpson, the use of the proprietary Simpson product name as a Reference Number  
9 necessarily and falsely implies that the two products are equivalent, when in fact they are not.

10 52. On information and belief, MiTek's actions, as described above, have been  
11 undertaken with the intent to deceive consumers. Indeed, MiTek intends for consumers to equate  
12 the MiTek product with the similarly named or referenced Simpson product. This intent is clear  
13 from MiTek's use of Simpson product names as MiTek product names and Reference Numbers  
14 generally, as well as from MiTek's particular use, for example, of (a) the "Advanced Product  
15 Search" feature on the MiTek website that equates MiTek products with Simpson's products  
16 based on Simpson product names, (b) the search and "Product Conversion" features on the  
17 MiTek App that equate MiTek products with Simpson's products based on Simpson product  
18 names, (c) the Reference Number Index in the MiTek catalogs that equates MiTek products with  
19 Simpson's products based on Simpson product names, and (d) the Conversion Guide that directly  
20 equates a Mitek product to a Simpson product.

21 53. MiTek's attempt to equate its products with Simpson products through the use of  
22 Simpson product names is particularly concerning because the Simpson and MiTek products are  
23 not equivalent. The Simpson products that correspond to the Reference Numbers are, in fact,  
24 materially different than the MiTek products. As discussed above, many of Simpson's products  
25 are patented, precluding MiTek from copying the innovative features of Simpson's products that  
26 are covered by the patents, and, even in cases where Simpson does not have patent protection for  
27 a product, the MiTek knock-off products are inferior in other ways. In particular, the Simpson  
28 products often achieve higher load values than the purportedly "equivalent" MiTek products. A

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1 consumer who sees the Simpson product name on a MiTek label or on the MiTek website is thus  
2 likely to conclude incorrectly that the MiTek product can be used in place of the Simpson  
3 product, when in fact it cannot.

4 54. MiTek also recommends, directs, and/or instructs distributors, dealers, and  
5 retailers to market and advertise MiTek products with MiTek marketing and advertising  
6 materials that, through the use of Simpson product names described above, make false  
7 statements to consumers about MiTek products and their relationship with Simpson products, as  
8 described above. For example, MiTek's Dealer Merchandising Guide, discussed above and  
9 attached as Exhibit D, directs dealers and retail stores to display MiTek products for sale in a  
10 manner that emphasizes the infringing and improper MiTek product names and Reference  
11 Numbers, including use of shelf tags, signage, and carton labels that employ the product names  
12 and Reference Numbers. The Dealer Merchandising Guide further includes the Conversion  
13 Guide, which, as discussed above, explicitly "converts" Simpson product names into the  
14 purported MiTek equivalent, as an aisle sign. Moreover, MiTek's connector and fastener  
15 products (with deceptive and infringing product packaging, carton labels, product labels, and/or  
16 shelf tags) are displayed for sale in some retail environments in close proximity, if not adjacent  
17 to, Simpson's connector and fastener products. On information and belief, MiTek's advertising  
18 and marketing strategy, as communicated and directed to MiTek's dealers and retailers, is  
19 intended to deceive consumers.

## 20 **VII. CAUSES OF ACTION**

### 21 **FIRST CAUSE OF ACTION**

#### 22 **False Advertising Under Federal Lanham Act – 15 U.S.C. § 1125(a)(1)(B)**

23 55. Simpson incorporates herein the allegations of paragraphs 1 through 54.

24 56. MiTek's acts described herein constitute false advertising and unfair competition  
25 in violation of 15 U.S.C. § 1125(a)(1)(B).

26 57. MiTek has used or made, and will continue to use or make, in commercial  
27 advertising or promotion throughout the United States, including in California, one or more  
28 words, terms, names, symbols, or devices, or any combination thereof, or any false and/or

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misleading designation of origin, false and/or misleading description of fact, or false and/or misleading representation of fact that misrepresent the nature, characteristics, and/or qualities of MiTek's and Simpson's products, including the acts alleged above.

58. MiTek's acts have deceived and/or have a tendency to deceive a substantial segment of the relevant public to whom the statements have been made.

59. MiTek's acts are material in that they have influenced and/or are likely to influence the purchasing decisions of relevant members of the public, including by leading them to believe that MiTek's products are Simpson's products, that MiTek's products are equivalent to Simpson's products, and/or that Simpson is affiliated with, authorizes, and/or endorses MiTek and MiTek's products.

60. By reason of the foregoing, MiTek has intentionally and willfully violated 15 U.S.C. § 1125(a)(1)(B).

61. As an actual and proximate result of MiTek's willful and intentional acts, Simpson has suffered harm by direct diversion of sales from Simpson to MiTek, or by lessening of the goodwill which Simpson's products enjoy with the buying public.

62. MiTek's wrongful acts, unless and until enjoined and restrained by order of this Court, will cause irreparable injury to Simpson. Simpson has no adequate remedy at law in that monetary damages would be difficult to ascertain, and would be inadequate to compensate Simpson for the harm caused by MiTek if MiTek is not enjoined.

**SECOND CAUSE OF ACTION**  
**False Advertising Under California Law – Cal. Bus. & Prof. Code § 17500**

63. Simpson incorporates herein the allegations of paragraphs 1-62.

64. MiTek's acts as described herein constitute untrue and misleading advertising in violation of section 17500 *et seq.* of the California Business & Professions Code.

65. MiTek publicly made or disseminated untrue and misleading statements, and/or caused untrue and misleading statements to be made or disseminated, to the public in California, with the intent to induce any person who read it to purchase from MiTek the products described in the advertisements.

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66. MiTek's statements in the advertisements were known, or should have been known by the exercise of reasonable care, to be untrue and misleading, and were made to deceive any person who might read the advertisements.

67. MiTek's statements in the advertisements are false and misleading in that they falsely state and/or necessarily imply that MiTek's products are Simpson's products, that MiTek's products are equivalent to Simpson's products, and/or that Simpson is affiliated with, authorizes, and/or endorses MiTek and MiTek's products, when in fact that is not true.

68. As a direct and proximate result of the foregoing conduct, Simpson has suffered harm, including harm to reputation and lost goodwill.

69. MiTek's wrongful acts, unless and until enjoined and restrained by order of this Court, will cause irreparable injury to Simpson. Simpson has no adequate remedy at law in that monetary damages would be difficult to ascertain, and would be inadequate to compensate Simpson for the harm caused by MiTek if MiTek is not enjoined.

**THIRD CAUSE OF ACTION**  
**Passing Off Under The Federal Lanham Act – 15 U.S.C. § 1125(a)(1)(A)**

70. Simpson incorporates herein the allegations of paragraphs 1-69.

71. MiTek's acts described herein constitute passing off and unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A).

72. MiTek has used or made, and will continue to use or make, in commerce throughout the United States, including in California, one or more words, terms, names, symbols, or devices, or any combination thereof, or any false and/or misleading designation of origin, false and/or misleading description of fact, or false and/or misleading representation of fact that is likely to cause consumer confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of MiTek with Simpson, or as to the origin, sponsorship, or approval of MiTek's products by Simpson.

73. By reason of the foregoing, MiTek has intentionally and willfully violated 15 U.S.C. § 1125(a)(1)(A).

74. As an actual and proximate result of MiTek's willful and intentional acts,



1 Simpson has suffered harm.

2 75. MiTek's wrongful acts, unless and until enjoined and restrained by order of this  
3 Court, will cause irreparable injury to Simpson. Simpson has no adequate remedy at law in that  
4 monetary damages would be difficult to ascertain, and would be inadequate to compensate  
5 Simpson for the harm caused by MiTek if MiTek is not enjoined.

6 **FOURTH CAUSE OF ACTION**  
7 **Unfair Competition Under California Law – Cal. Bus. & Prof. Code § 17200**

8 76. Simpson incorporates herein the allegations of paragraphs 1-75.

9 77. MiTek's acts described herein constitute unfair competition in violation of section  
10 17200 *et seq.* of the California Business and Professions Code.

11 78. As a direct and proximate result of the foregoing conduct, Simpson has suffered  
12 damages, including harm to reputation and lost goodwill.

13 79. MiTek's wrongful acts, unless and until enjoined and restrained by order of this  
14 Court, will cause irreparable injury to Simpson. Simpson has no adequate remedy at law in that  
15 monetary damages would be difficult to ascertain, and would be inadequate to compensate  
16 Simpson for the harm caused by MiTek if MiTek is not enjoined.

17 **FIFTH CAUSE OF ACTION**  
18 **Copyright Infringement**

19 80. Simpson incorporates herein the allegations of paragraphs 1-79.

20 81. Simpson owns a valid registered copyright on its Wood Construction Connectors  
21 Catalogs with the registration numbers identified above. Simpson has the exclusive right to  
22 copy, distribute, and transmit those copyrighted works in the United States. All of the registered  
23 Wood Construction Connectors Catalogs going back to at least 2000 contain Simpson Part  
24 Names and Model Numbers in the manner described above, including but not limited to use of  
25 Simpson Part Names and Model Numbers on pages of the catalog providing information  
26 regarding Simpson product lines. In particular, all of the registered Wood Construction  
27 Connectors Catalogs going back to at least 2000 contain a version of the Alphabetical Product  
28 Index described above.

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82. MiTek has copied Simpson's copyrighted works and/or created unauthorized substantially similar derivative works, and has distributed those works to third parties, therefore infringing Simpson's copyrights, by using Simpson Part Names and Model Numbers in its own catalogs and other marketing and advertising materials as described above. Such infringing works include, but are not limited to (a) MiTek's 2020 Catalog, (b) MiTek's 2019 Catalog, (c) MiTek's 2018 Catalog, (d) MiTek's Conversion Guide, last published in 2018, (d) MiTek's current version of its App, last updated in iOS and Android versions in June 2020, and (e) MiTek's current version of its website at www.mitek-us.com, which, on information and belief, was updated in 2020. In particular, MiTek has copied and/or created unauthorized substantially similar derivative works of Simpson's Alphabetical Product Index by publishing and distributing its own catalogs with the Reference Number Index described above.

83. MiTek's conduct was willful and violates the exclusive rights belonging to Simpson as the owner of the copyrights and its original works, including, without limitation, Simpson's rights under 17 U.S.C. §106.

84. As a result of the above-described conduct of MiTek, Simpson has been harmed.

85. Simpson is further entitled to an order, upon the entry of a final judgment, directing the destruction or the return to Simpson of all infringing copies or derivations of Simpson's copyrighted works.

#### **PRAYER FOR RELIEF**

Simpson requests the Court to enter a judgment in its favor against Defendant MiTek as follows:

86. For a permanent injunction against MiTek and the officers, agents, employees, or attorneys of MiTek, and all others in active concert or participation with them, restraining them from the following actions:

(a) copying Simpson product names or using substantially similar product names as MiTek product names when MiTek introduces new products;

(b) including Simpson product names as a "Reference Number" or "Reference Series" in catalogs, publications, webpages, or other online or hardcopy documents, including

but not limited to in tables or charts showing the performance characteristics of MiTek's products;

(c) including Simpson's product names as a "Reference Number" or "Reference Series" on MiTek product packaging, carton labels, product labels, shelf tags, and other point-of-sale materials or displays;

(d) including functionality in its mobile applications, online website, or other software that enables users to enter a Simpson product name to search for MiTek products; and

(e) publishing a "MiTek USP Cross Reference Conversion Guide" or "Reference Number Conversion" chart with Simpson product names.

87. That MiTek be adjudged to have infringed Simpson's copyright within the meaning of 17 U.S.C. §106;

88. That MiTek be adjudged to have engaged in false advertising, passing off, and unfair competition under both Federal law and California law; and

89. That Simpson be granted such other and further relief as this Court may deem just and proper.

### **DEMAND FOR JURY**

Simpson demands a trial by jury for all issues so triable.

Dated: October 6, 2020

SHARTSIS FRIESE LLP

By: /s/ Joseph V. Mauch  
JOSEPH V. MAUCH

Attorneys for Plaintiff  
SIMPSON STRONG-TIE COMPANY INC.

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